

# BARNES FACES ROOSEVELT AS TRIAL OF LIBEL SUIT IS BEGUN

"Bossism" Is Keynote of \$50,000 Action Brought in Syracuse Court Against Former President.

Colonel Claims Justification in Likening Republican Leader to Murphy, and Says He'll Prove It.

SYRACUSE, N. Y., April 19.—Machine politics—"bossism"—was the keynote of the trial, begun here today, of William Barnes' suit against former President Theodore Roosevelt for \$50,000 damages for alleged libel.

Barnes asks the \$50,000 reputation balm for being publicly named by the former President as an alleged partner with "Boss" Charley Murphy of Tammany Hall, in an "alliance between crooked business and crooked politics."

Colonel Roosevelt's defense is justification. He proposes to prove his charges.

Prominence of both principals in present and past political history, and the overshadowing issues, with their possible result on future politics, made today's trial one of the most unique and politically pregnant in State and national fields.

T. R. FIRST TO ARRIVE.

The colonel was the first to arrive at the court, fifteen minutes ahead of time. He was met by the "movies," and showed his teeth and touched his black slouch hat to the crowds. He wore a dark suit and a black bow tie. He seemed to be in good humor.

Barnes and his counsel filed in a few minutes later, and Barnes' face wore its usual half smile. He did not look at Roosevelt. He took a seat with his back turned sideways toward the colonel. The latter also ignored Barnes, merely giving one quick glance at Barnes' back.

The Roosevelt party pre-empted the counsel table nearest the jury.

Barnes wore a gray suit, blue tie and low collar, and a "loud" black and white striped vest.

The colonel sat in full view of the jury, and also just in front of "newspaper row."

It was before Trial Justice Andrews appeared. At either side of his desk were large bouquets of carnations, a special decoration.

As the roll of names was called, Barnes scanned them closely, but the colonel paid scant attention to the preliminaries.

Five of the names did not desire to serve in the case and were excused.

The remaining seven were sworn in, and many hands being raised with a Bible held out before the whole group. The principals settled down to

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Petition to Compel Reinstatement in Postoffice and Navy Yard Is Dismissed.

The appeal in behalf of George Dean and M. S. Persing, G. A. R. veterans, formerly employed in the City Postoffice and at the Navy Yard, respectively, to the Court of Appeals, in an effort to be reinstated, was decided against them today by Chief Justice Sheppard.

The appellate affirmed the decision of Justice Stafford of the District Supreme Court, who dismissed a petition for mandamus compelling the reinstatement of the veterans. It is possible that the G. A. R. will make an effort to carry the case to the United States Supreme Court.

Exchange Secret Notes.

ROME, April 19.—The Giornale d'Italia says Emperor Francis Joseph and Pope Benedict have exchanged autograph letters through special couriers, the contents of which are kept strictly secret.

# Germans Capture Roland B. Garros

Famous French-Army Flier Taken Prisoner Between the Meuse and Moselle Rivers.

BERLIN (via wireless to Saville), April 19.—Lieut. Roland B. Garros, one of the chief French aviators, who has been especially active in aerial work on the Meuse front, was captured today, according to a statement just made public by the war office.

It is stated that he was taken prisoner at a point "between the Meuse and Moselle." Whether his airplane was shot down or whether he was captured while on the ground has not yet been made known.

"They're playing for high stakes—\$50,000—which would beggar this good man and his family and give to this woman, his counsel, and others, an enormous price for those few weeks of romance," declared Miss Harriet Freehey, attorney for the millionaire.

Miss Freehey characterized Mrs. McNabb, who sat near by, pale and nervous, as an "adventuress," who had escaped "the senile carresses and whims" of the aged man who promised to marry her.

"A great-grandfather trifled with her young affections, this Lethario of mature years was untrue to her, she would have you believe," said Miss Freehey. "The truth is that by her blandishments she laid her nets for him, but he broke through the net and got away."

Kinney Near.

Kinney sat only a few feet from his attorney while she was laying Mrs. McNabb with biting sarcasm. Occasionally she smiled, but for the most part her face was grimly, turning occasionally to glare at one of his daughters who sat beside him.

"Was this daughter to submit quietly to the prospect of having an adventure for a stepmother, this woman to take the place of her dead mother in her home?" demanded Mrs. McNabb, who applied to the criticism that Miss Adeline Freehey, a graduate of the National Park Seminary, and now a law student in Washington, had "spirited" her father away from Michigan, when she learned of his engagement to the widow.

Miss Freehey said that the case was "too ugly and sordid in details" to be the subject of fun, but that it was suggested to her that the arrangements made by Mrs. McNabb to fine the millionaire sumptuously soon after she met him was done on the theory that "the road to a man's heart lies through his stomach."

She referred to the letter in which Mrs. McNabb ordered her much-esteemed son-in-law, "an extra roast and some curries," as she was bringing home "the rich gentleman" and expected "to land the old dear."

Engagement Broken.

Speaking in regard to the alleged breach of promise on the part of the millionaire, after he had signed a contract on June 17, 1912, to marry Mrs. McNabb, Miss Freehey said:

"The engagement was broken on just as soon as it was suggested that there were certain things about the plaintiff which we afterward proved."

Miss Freehey disclaimed the charge that she destroyed the much-esteemed son-in-law, the millionaire, in her opening address to the jury, as claimed by Attorney Poe, for the plaintiffs.

"I said that he was a plain, unphilosophical, old man; easy prey for schemers and sharpers, especially of the fair sex," she said. "You gentlemen have seen him, and I ask you to draw your own conclusions. He was

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MARYLAND SWEEP BY FIERCE FOREST FIRES

Thousands Lost as Result of Blaze on North and South Mountains.

HAGERSTOWN, April 19.—Forest fires sweeping over portions of the North and South mountain ranges are destroying thousands of dollars worth of timber and threatening valuable property.

The fires are burning fiercely despite the efforts of hundreds of men. As the mountains are very dry, the flames are spreading rapidly.

The largest fire, starting near Edgemont, is sweeping southward on the South mountain, ravaging both sides of the divide, and threatening the town of Washington and Frederick counties.

Several thousand acres have been burned over. The main sweep of the fire was through the timberland of the Washington County Water Company's watershed and around the reservoirs east of Frederick.

The fire now has spread far into Frederick county, menacing several villages. Residents of the fire-free region are preparing to flee their homes.

The fire has nearly reached Braddock Heights, a summer resort, where a large force of men are attempting to arrest its advance.

The mountains west of Hancock are burning in several places unchecked, the flames at one point reaching the main trunk of the Woodmont Road and in Club Man's fences have been destroyed. A barn on the farm of Dr. J. M. Gaines, near Dan's, along the Potomac river, is reported to have been burned.

After a series of stubborn battles, the Russians took possession of the fortified positions of the enemy on the heights and captured 1,100 soldiers, twenty-four officers, and three Maxims.

In a number of counter-attacks the enemy lost very heavily without gaining any advantage.

In the Strzy-Munkacs direction, where very large forces of Germans are operating, attacks upon the heights captured by the Russians appear to continue with hardly any intermission, and are resolutely being back.

I have seen letters from both officers and men in the region, and all alike reflect the transfer of McCarthy's license to the Evans building, according to a decision by Associate Justice Robb of the Court of Appeals.

The decision reverses the ruling of Justice Stafford, of the District Supreme Court, who found in favor of Attorney Sheehy, a former member of the Excise Board, on the ground that the action was against public policy and void, and that the plaintiff had no standing in court.

Columbus and Sheehy entered into a contract May 4, 1914, to render services to McCarthy in the matter of having his license transferred, according to the record.

The license was transferred and McCarthy paid Mr. Sheehy \$2,500. Mr. Columbus sued to recover what he claimed was his half of the amount so paid.

Entitled to Fee for Services Before Excise Board, Court Decides.

Attorney William F. Columbus is entitled to one-half of the \$2,500 which Attorney Joseph C. Sheehy collected from Dennis J. McCarthy, a saloon keeper, as one-half of a contingent fee of \$5,000 for professional services rendered before the Excise Board in connection with the transfer of McCarthy's license to the Evans building, according to a decision by Associate Justice Robb of the Court of Appeals.

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# AUSTRIA AND GERMANY JOIN CAMPAIGN TO INVADE SERBIA

Troop Movements to the Carpathians Halted on State Railway to Advance New Movement on Little Kingdom

Over 100,000 Germans Are Among Forces Headed for Serb Frontier—Berlin Claims Check to British.

GRIMSBY, England, April 19.—The captain and nineteen members of the crew of the Dutch steamer Olanda were landed here today by a port trawler.

The Olanda struck a mine in the North Sea on Sunday and sank.

She carried a cargo of coal.

SOFIA, April 19.—Despite the need of troops to oppose the Russians, who are endeavoring to force the Carpathian passages, reports received today say that all train traffic on the Austro-Hungarian state railway has again been stopped, because of troop movements.

This is declared to mean that von Goltz has carried the day, and that another attempt to capture Serbia is to commence. It is stated that among the troops headed for the Serbian frontier are 100,000 Germans.

British Repulsed at Ypres, German War Report Asserts

BERLIN, April 19 (via wireless to Saville, L. E.).—The British attempt to destroy, through mining operations, the strong German positions southeast of Ypres has failed, the war office today announced. The British were repulsed with heavy loss. The official statement said:

"The English, after some blasting, last night rushed the German position on the heights southeast of Ypres. They were at once repulsed in a counter-attack. The fighting here continues."

"In the Champagne, the French have blasted a trench in the position taken on April 16 by the Germans between the Meuse and the Moselle."

"Artillery duels are in progress in the Vosges."

"Southwest of Stossweiler, the Germans took the French positions. Southwest of Metz, the Germans carried the outposts, but fell back before a superior force of the enemy."

"The situation on the eastern front is unchanged."

Russians Concentrate For Advance Upon Hungarian Plains

PETROGRAD, April 19.—Fighting in the Carpathians on the main line of the Russian advance has been concentrated on the narrow section lying between the villages of Telepoch and Zuelia. The latter is situated fourteen miles almost due south of Bulligrod, and Telepoch is four miles west by north of Zuelia. The scene of this fight, which has been in progress for a couple of days only, is twenty miles from Homonna, so that the Russians already are technically in Hungarian territory.

After a series of stubborn battles, the Russians took possession of the fortified positions of the enemy on the heights and captured 1,100 soldiers, twenty-four officers, and three Maxims.

In a number of counter-attacks the enemy lost very heavily without gaining any advantage.

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# Test Vote Reveals Mrs. Story in Lead

MISS FLORENCE G. FINCH, Story Campaign Manager.



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# PRESIDENT GREETES D. A. R. DELEGATES

Rival Candidates Will Hold Brilliant Receptions Tonight. Credentials Battle Starts.

The first test of strength of the opposing factions in the politics of the National Society, Daughters of the American Revolution, came to the surface in the initial meeting of the twenty-fourth continental congress of the organization when it opened in Memorial Continental Hall today.

The gathering of Mrs. William Cummings Story, seeking re-election as president general, drew in the majority of the first day and may vote.

The congress opened at 10 o'clock with delegates and visitors occupying every seat in the capacious auditorium. Delegates from several States, however, failed to respond to roll call.

This afternoon President Wilson welcomed the delegates. A program by the Marine Band, a patriotic song by Mrs. Houston, and addresses by the president general, Mrs. John Hays Hammond, Ambassador Jusseland, John Barrett, director general of the Pan-American Union, and Rogers Clark Ballard Thurston, who will present greetings from the Sons of the American Revolution, was to be given.

Receptions Tonight.

This evening between 5 and 7 o'clock in the New Willard, the Kansas delegation will tender a reception to Mrs. George Washington Story, candidate opposing Mrs. Story for president general, and in Memorial Continental Hall from 9 to 11, Mrs. Story will preside at the annual president general's reception.

The opening of the congress was marked by all the pomp and splendor that has, heretofore, characterized the annual meetings of the daughters. The shrill notes of the bugle, sounded by Arthur S. Whitcomb, of the Marine Band, at 10 o'clock signaled the approach of the president general.

Proceeding down the center aisle of the auditorium by her pages, Mrs. Story was greeted with resounding applause as she passed through the side of white-gowned young women and mounted the steps to the stage.

The whack of her gavel brought all to their feet as Mrs. S. Lockwood, of the District, chaplain general of the society, read a short scriptural passage, and followed with a brief prayer in

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ANNAPOLIS JURY HOLDS SIX IN RAID

Warrants Issued for Principals Caught in Meyer's Station Arrests Last January.

ANNAPOLIS, April 19.—After examining only three witnesses and being in session less than an hour, the grand jury here this afternoon returned presentments against the six promoters of the Meyer's Station poolroom, which was raided by Baltimore police on the 18th of last January.

The men presented are William Austin, alias Dan Rice, William Brooks, Fred Curtis, Sol Frank, Henry Murray, Frank Ward.

Bench warrants at once were issued for these men who are in Annapolis today and who, it is understood, already have agreed to plead guilty to the charges against them. This will immediately release a large number of witnesses taken in the raid and against whom no further action will be taken.

Over 120 men held as witnesses or principals in connection with the gambling-joint raid were present. Going carefully through the crowd before court convened were a number of professional and private bondsmen who furnished security for many of the men taken by the Baltimore police when the pool room was raided. So far as can be learned, there has been no bail jumping.

In the crowd of witnesses and the first to be summoned before the grand jury were Lieut. Harry P. Schanberger, Sergt. John Conney, and Paul Leroy Watson, all of the Baltimore city police force, who gathered the evidence on which the raid was based.

Judge Brashears warned the jury that any carrying of messages from the jury room of that body's deliberation would be followed by the immediate removal from the jury of the guilty man.

May Wheat Soars To \$1.64 a Bushel

Advance of Two Cents Over Saturday's Close Shown At Opening.

CHICAGO, April 19.—Wheat started soaring when the pit opened for business today.

May wheat sold at \$1.64 per bushel, July at \$1.38, and September futures at \$1.18.

These prices represent advances of 2 cents each over Saturday's close.

# LEO FRANK LOSES HIS LAST FIGHT IN HIGHEST COURT

Atlanta Factory Superintendent Convicted Of Mary Phagan's Murder, Must Die Unless Granted Clemency.

HUGHES AND HOLMES DISS.

They Rap Lynch Law in the Court Room, And Say Judgment Should Be Reversed—Court Decides Prisoner Received Fullest Rights.

The Supreme Court today refused to set aside the conviction of Leo M. Frank, the young Atlanta Hebrew, of murdering Mary Phagan.

Frank now faces death on the gallows, unless Georgia's governor grants clemency. The court denied Frank's application for a habeas corpus writ, upon which he sought a new trial.

Summing up the court's opinion, Justice Pitney said: "Frank's petition shows that, having been formally indicted for murder, he was placed on trial before a court of competent jurisdiction, with a jury lawfully constituted; he had a public trial, deliberately conducted, with the benefit of counsel for his defense; he was found guilty and sentenced pursuant to the laws of the State; twice he has moved the trial court to grant a new trial, and once to set aside the verdict as a nullity; three times he has been heard upon appeal before the court of last resort of Georgia, and in every instance the adverse action of the trial court has been affirmed."

THE VERDICT OF THE COURT.

"His allegations of hostile public sentiment and disorder in and about the courtroom improperly influencing the trial court and the jury against him, have been rejected because untrue in point of fact upon evidence presumably justifying that finding and which he has not produced in the present proceeding; his contention that his lawful rights are infringed because he was not permitted to be present when the jury rendered its verdict has been set aside because it was waived by his failure to raise the objection in due season when fully cognizant of the facts."

"In all of these proceedings the State, through its courts, has retained jurisdiction over him, has accorded to him the fullest right and opportunity to be heard according to the established modes of procedure, and now holds him in custody to pay the penalty of the crime of which he has been adjudged guilty."

"In the opinion of this court, he is not shown to have been deprived of any right guaranteed to him by the Fourteenth amendment or any other provision of the Constitution or laws of the United States; on the contrary, he has been convicted and is now held in custody under due process of law within the meaning of the Constitution."

NO MOB DOMINATION.

As to allegations of disorder in and about the courtroom, amounting to mob domination, the court said:

"Frank included in his application for habeas corpus the evidence on his side of the question, but omitted to include that which was introduced by the State against him, and by which the Georgia courts were convinced that the allegations of disorder and mob domination were untrue."

"But the courts of the United States, in determining the question whether an applicant for the writ of habeas corpus is held in custody in violation of the Constitution of the United States, must take into consideration not merely the proceedings and evidence of the trial court, but also the proceedings in the appellate court of the State."

"The question of a deprivation of liberty without due process of law," said the court, "involves not the jurisdiction of any particular court, but the power and authority of the State itself. The prohibition of the Fourteenth amendment is addressed to the State, and the question whether a State is depriving a prisoner of his liberty without due process of law, where the offense for which he is prosecuted is based upon a law that does no violence to the Federal Constitution, cannot be determined, with fairness to the State, until the conclusion of the course of justice in its courts. Therefore the results of the trial and the results of the appellate review cannot be ignored when a prisoner applies to a Federal court for his release on habeas corpus."

"Respecting the fact that Frank was not present in the court room when the verdict was rendered, his presence having been waived by his counsel but without his knowledge or consent, the Georgia court held that because Frank, shortly after the verdict, was made fully aware of the fact that he had been sentenced to death, and that he had grounds not only for a new trial, and had

Hughes and Holmes Dissent.

Justice Holmes read the dissenting opinion, saying, in part:

"Mr. Justice Hughes and I are of opinion that the judgment should be reversed. The only question before us is whether the petition shows on its face that the writ of habeas corpus should be denied, or whether it is necessary to go to the merits of the case. This court holds that there is nothing in the Fourteenth amendment to prevent a State from adopting and enforcing so reasonable a regulation of procedure."

That motion heard by both the trial court and the Supreme Court, he could not, after this motion had been fully adjudicated against him, move to set aside the verdict as a nullity because of his absence, and, if he were present, he would be denied the right to be heard. This court holds that there is nothing in the Fourteenth amendment to prevent a State from adopting and enforcing so reasonable a regulation of procedure."

The trial began on July 23, 1912, at Atlanta, and was carried on in a court packed with spectators and surrounded by a crowd of outsiders, all strongly hostile to the petitioner. On Saturday, August 23, this hostility was sufficient to lead the judge to confer in the presence of the jury with the chief of police of Atlanta and the colonel of the Fifth Georgia Regiment, stationed in that city, both of whom were known to the jury. On the same day, the evidence seemingly having been closed, the public press, apprehending danger, united in a request to the court that the proceedings should not continue on that evening. Thereupon the court adjourned until Monday morning.

As To Mob Domination.

"On that morning when the solicitor general entered the court he was greeted with applause, stamping of feet and clapping of hands, and the